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Atty. Docket No.: P68705US0

**REMARKS**

The Office Action mailed November 20, 2003, has been carefully reviewed and Applicant notes with appreciation the identification of allowable subject matter.

By this Amendment, claims 6, 10 and 14 have been canceled as being redundant in view of the totality of the other amendments and new claims set forth herein. Claims 1-3, 5, 7, 9, 12, 13 and 21 have been amended, and new claims 22-31 have been added. Accordingly, claims 1-5, 7-9, 11-13 and 15-31 are pending in the application. Claims 1, 5, 7, 9, 12, 21, 22, 26, and 31 are independent. In view of the amendments, new claims and the following remarks, favorable reconsideration of this application is respectfully requested.

The Examiner objected to the drawings as containing informalities. With this Amendment, Applicant has submitted formal drawings correcting the matters noted in PTO-948.

The Applicant has amended the specification in accordance with the formal drawings. These changes include setting forth some of the text previously shown in the drawings in the description and, in conjunction with the specification text, identifying the corresponding elements with appropriate

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reference numerals in the drawings. No new matter has been added.

The Examiner rejected claims 2, 12 and 21, as well as claims 3 and 13-20 dependent thereon, under 35 U.S.C. 112, second paragraph as being indefinite. With the amendments set forth herein, the claims are presented as being in conformity with 35 U.S.C. 112, second paragraph, and favorable reconsideration and withdrawal of the rejection is requested.

The Examiner rejected claim 1 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,794,435 to Suzuki et al. ("Suzuki"), and rejected claim 11 under 35 U.S.C. 103(a) as being unpatentable over Suzuki. Also under 35 U.S.C. 103(a), the Examiner rejected claims 2, 4, 12 and 18-20 as being unpatentable over Suzuki in view of U.S. Patent No. 5,617,154 to Hoffman.

The Examiner objected to claims 5-10 as being dependent upon a rejected base claim, but stated that claims 5-10 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. The Examiner also stated that claim 21 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph, and that claims 3 and 13-17 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second

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paragraph, and to include all of the limitations of the base claim and any intervening claims.

As set forth in amended claims 1 and 12, the present invention is directed to eyewear for improved visual clarity that includes a first lens having a green tint, and a second lens having a yellow tint such that the second lens is visibly different from the first lens (see the specification at page 8, lines 12-17, and page 14, lines 16-17). Because of the visible difference between the two lenses, the first and second lenses create a conflicting color-retinal rivalry in a wearer's eyes (see the specification at page 6, lines 12-22) when the eyewear is worn, with the result being improved visual clarity. This is not shown or suggested by the prior art.

Suzuki teaches a photochromatic gradient lens having two colortones *within the same lens*. Therefore, using two of these lens would only result in two lenses of identical appearance, each having the same two-color gradient. This is clearly what Suzuki intends, speaking always about a single lens which is "fashionable" with its two colors (see column 1, lines 35-40); this in no way suggests that one might combine two lenses of different appearance with respect to each other, as such would not be generally considered cosmetically "fashionable".

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Furthermore, there is nothing in Suzuki that would suggest that the use of two visibly different lenses, creating a "slight 'harlequin' appearance to the face" (specification at page 8, line 14), could be combined to enhance visual clarity through the creation of a conflicting color-retinal rivalry in the wearer's eyes. Instead, combining two of the Suzuki lenses would not create any conflicting color-retinal rivalry because both of the wearer's eyes would see the same thing in terms of lens filtering. For at least the foregoing reasons, claims 1 and 12 are neither anticipated by nor obvious in view of Suzuki.

Nor is there anything in Hoffman, which speaks only to light filtering contact lenses, that would provide any teaching or suggestion of the use of two lenses that are visibly different for enhanced visual clarity and, indeed, the Examiner has not relied upon Hoffman for such teaching. Therefore, claims 1 and 12 are patentable over the prior art of Suzuki and Hoffman.

Claims 2-4, 8, 11, 13 and 15-20 are in condition for allowance as claims properly dependent on an allowable base claim and for the subject matter contained therein, particularly that of claims 3, 8 and 15-17 which has been identified as allowable.

Claims 5, 7 and 9 have been rewritten as independent claims, incorporating the subject matter of underlying claim 1

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from which they depended, and therefore claims 5, 7 and 9 in condition for allowance in accordance with the Examiner's identification of allowable subject matter.

Claim 21 has been amended to overcome the rejection under 35 U.S.C. 112, second paragraph, and is in condition for allowance in accordance with the Examiner's identification of allowable subject matter. New claim 30 is also in condition for allowance as a claim properly dependent on an allowable base claim and for the subject matter contained therein.

New claims 22 and 26 substantially represent the subject matter of claims 10 and 7, respectively, rewritten in independent form and incorporating original claim 12, to the extent of a first and second lens while not specifying an eyeglass frame. New claim 31 substantially represents claim 21, rewritten alternatively to include the peak filter bandwidth limitations identified by the Examiner as defining allowable subject matter. Therefore, claims 22, 26 and 31 are in condition for allowance in accordance with the Examiner's identification of allowable subject matter in claims 7, 10 and 21. Claims 23-25 and 27-29 are also in condition for allowance as claims properly dependent on an allowable base claim.

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With this amendment, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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